

REMARKS\ARGUMENTS

Claims 69-77 are rejected under 35 USC 103(a) as being unpatentable over Kimura et al. EP 0799823 and Ruff et al. Journal of Clinical Investigat. vol. 77, pp. 1483-1486. The rejection is based on the reasoning that

"Ruff does not teach that acetaminophen is a PG inhibitor, it actually sets acetaminophen apart from PG inhibitors in the genus of antipyretic compounds. Given the fact that Kimura has established the compounds of the invention as PG inhibitors and the prior art has set forth that these PG inhibitors counter muscle wasting, the rejection of record is maintained."

Although it is true that Ruff does not teach that acetaminophen is a PG inhibitor, Ruff does not teach that acetaminophen is not a PG inhibitor. In addition, although the Examiner is interpreting that Ruff sets acetaminophen apart from PG inhibitors, Ruff does not exclude acetaminophen from PG inhibitors at all. Thus, Ruff is apparently silent on the issue.

Contrary to the Examiner's conclusion, acetaminophen is, in fact, a PG inhibitor, as was known before and after the teaching of Ruff. Enclosed herewith are six scientific papers reporting the inhibitory activity of acetaminophen on prostaglandin synthesis. Citation of these documents is requested on the attached PTO/SB/08B form.

In view of the above-noted scientific papers, it is submitted that, at the time of the present invention, acetaminophen was known to be a PG inhibitor. Thus, one of ordinary skill in the art would consider Ruff as an evidence to show that at least one certain PG inhibitor, acetaminophen, did not counter muscle wasting.

It is therefore submitted that, although the Examiner bases his reasoning that PG inhibitors counter muscle wasting on Ruff, Ruff rather teaches away from such a conclusion i.e. prevents one of ordinary skill in the art from interpreting or concluding that all PG inhibitors counter muscle wasting.

Therefore, even if Kimura has established that the compounds of the present invention are PG inhibitors, Ruff fails to support the conclusion by one of ordinary skill in the art that there is a reasonable expectation of success in the use of PG inhibitors, in general, to treat cachexia and rather that such a conclusion is contrary to the Ruff's report on acetaminophen.

Thus, it is submitted that concluding that:

"It would have been *prima facie* obvious to a person of ordinary skill in the art at the time the invention was made to use the diphenylpyrrole compounds of the instant invention to treat cachexia or side effects of tumor related disorders"

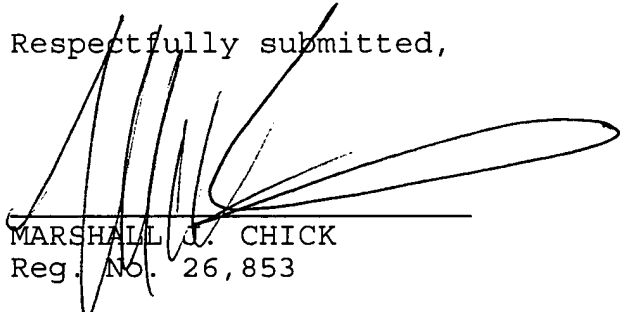
(the third paragraph from the bottom of page 2 of the rejection)  
is unsupported by the record.

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Reply to Office Action of July 15, 2003

Withdrawal of the rejections and a favorable action on the merits are respectfully requested.

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Respectfully submitted,



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Encs.: INFORMATION DISCLOSURE STATEMENT enclosing:

Eur. J. Pharmacol., 271, 293-299 (1994)  
Eur. J. Pharmacol., 179, 25-34 (1990)  
Eur. J. Pharmacol., 72, 57-61 (1981)  
J. Pharmacol. Exp. Ther., 210, 405-409 (1979)  
J. Pharmacol. (Paris), 9, 1, 13-23 (1978)  
Biochim. Biophys. Acta, 542, 486-495 (1978)